

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division**

IN RE:

MARLENE BURRELL-MOYE

Debtor(s)

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Case No.: 07-18376-DK

Chapter 13

**SECOND MOTION TO DISMISS
CASE FOR MATERIAL DEFAULT**

Gerard R. Vetter, Chapter 13 Trustee ("Trustee") in the above-captioned case, pursuant to 11 U.S.C. § 1307(c)(6), requests the Court to dismiss this Chapter 13 case. In support of his request, the Trustee respectfully represents the following:

1. The Debtor commenced this case under Chapter 13 on September 4, 2007. An Order confirming the Debtor's Second Amended Plan was entered on April 1, 2008 (the "Plan:"). The Plan proposed to pay \$250.00 per month for a term of 9 months with the remaining plan balance being paid in full through a refinance loan in or before month 10 of the plan.

2. The tenth month of the Plan term passed and, on April 9, 2009, the Trustee filed the Motion to Dismiss Case.

3. On April 30, 2009 the Debtor filed the Motion to Modify Plan. The Modified Plan was approved on June 23, 2009 and proposes to pay \$250.00 per month for a term of 24 months with the remaining plan balance being paid in full through a refinance loan in or before month 24 of the plan.

4. The twenty-fourth month of the term has passed and the Trustee has not received any proceeds from the refinance of the Debtor's real estate. The Debtor is in material default under the terms of the Plan by having failed to refinance her real estate as required by the Modified Plan.

5. The failure of the Debtor to refinance her real estate has created an unreasonable delay prejudicial to the creditors in this case.

WHEREFORE, for reasons stated, the Trustee requests that this Court dismiss this case, and grant such other and further relief as is just and appropriate.

Respectfully submitted,

/s/ Gerard R. Vetter
Gerard R. Vetter
Chapter 13 Trustee
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TO THE DEBTOR(S); TAKE NOTICE THAT, UNLESS YOU FILE A RESPONSE IN WRITING WHICH JUSTIFIES OR EXPLAINS THE ALLEGATIONS IN THIS MOTION WITHIN 20 DAYS OF THE DATE IN THE CERTIFICATE OF SERVICE BELOW, THIS CASE WILL BE DISMISSED WITHOUT FURTHER NOTICE. THE RESPONSE MUST BE FILED WITH THE BANKRUPTCY COURT, WITH A COPY SERVED ON THE TRUSTEE.

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2009, to the extent that the following persons were not served electronically via the CM/ECF system, I caused a copy of the pleading above referenced to be sent, by First Class U.S. Mail, postage prepaid to:

Jeffrey M. Sirody, Esquire
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Counsel for Debtor

Marlene Burrell-Moye
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Debtor

/s/ Gerard R. Vetter
Gerard R. Vetter